

**Appl. No.** : 10/623,875  
**Filed** : July 21, 2003

## REMARKS

The present amendment is in response to the Office Action mailed April 18, 2006.

In the Office Action, Claims 14, 17 through 18 and 20 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,042,900 to James.

In order to properly support a rejection under 35 U.S.C. § 102(b), the '900 patent to James must disclose each element of Applicant's presently amended independent Claim 14, arranged as recited in Claim 14. This James fails to do.

In particular, James fails to disclose, among other things, the following:

A distal section on the body in which the aspiration lumen including the distal facing opening is moveable between a first, reduced inside diameter for transluminal navigation and a second, enlarged inside diameter for aspirating material;

a support for controllably supporting the aspiration lumen against collapse when in the second diameter.

In view of the significantly different intended use of the venous drain tube disclosed in James, the structure disclosed therein is quite distinct from Applicant's present claimed invention. In particular, the drain tube in James includes a plurality of distally extending prongs 3 (see Figure 1) "which are so made that they normally expand as shown in Figure 1". Column 1 lines 37 through 38. Thus the prongs 3 in James expand into the configuration shown in Figure 1 under their own bias. No structure is disclosed for maintaining them in the enlarged diameter configuration.

To the contrary, sleeve 9 is provided with a sliding fit over the tube 1. Sleeve 9 may be advanced distally to collapse the prongs 3, as is illustrated in Figure 2. Retraction of the sleeve 9 as shown in Figure 1 enables the prongs 3 to move into the enlarged configuration under their own bias. See Column 1 lines 51 through Column 2 line 2.

Thus, James fails to disclose, among other things, a support for controllably supporting the aspiration lumen and distal opening against collapse when in the second (enlarged) inside diameter as recited in Applicant's Claim 14.

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In view of the foregoing, Applicant respectfully submits that the §102(b) rejection over James is improper and should be withdrawn.

Claims 14 through 18 and 20 additionally stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,573,509 to Thornton, with particular reference to Figure 13.

However, Thornton fails to disclose at least the following aspects of Claim 14:

A distally facing opening on the distal end of the aspiration lumen; a distal section on the body in which the aspiration lumen including the distally facing opening is moveable between a first, reduced inside diameter for transluminal navigation and a second, enlarged inside diameter for aspirating material.

Neither Figure 13 nor any other aspect of the '509 to Thornton discloses the foregoing. With particular reference to Figure 13, the distal perfusion port 82 is a side opening port, and not a distally facing opening on the distal end of the aspiration lumen as recited in Claim 14.

Alternatively, if the distal opening to the guide wire lumen which is unnumbered in Thornton's Figure 13, but which has been given the reference number 15 in Figure 1 is considered to be the distally facing opening within the context of Applicant's present Claim 14, Applicant respectfully submits that a §102 rejection over Thornton is still not properly sustainable. In either of the embodiments of Figure 1 or Figure 13, Thornton contains no disclosure of manipulating an internal support to increase the inside diameter of the distally facing opening on the distal end of the aspiration lumen. To the contrary, Applicant's Claim 14 recites that the distally facing opening is moveable between a first, reduced inside diameter for transluminal navigation and a second, enlarged inside diameter for aspirating material. Applicant respectfully submits that the §102 rejection over Thornton is improper, and should be withdrawn.

In view of the foregoing, Applicant respectfully submits that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, the Examiner is cordially invited to contact the undersigned so that any such matter may be promptly resolved.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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